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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/023,856	12/21/2001	Jonathan Robert Burnett	SPFE-0001-1	5738

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EXAMINER
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PARDO, THUY N

ART UNIT	PAPER NUMBER
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2165

DATE MAILED: 11/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/023,856	BURNETT, JONATHAN ROBERT	
	<b>Examiner</b>	<b>Art Unit</b>	
	Thuy Pardo	2165	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-57 is/are pending in the application.
- 4a) Of the above claim(s) 14, 19-25, 29-41, 45-51 and 54-57 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16 and 17 is/are allowed.
- 6) ☒ Claim(s) 1-13, 15, 18, 26-28, 42-44, 52, and 53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. Applicant's Response to Examiner's Office Action has been reviewed. Claims 14, 19-25, 29-41, 45-51 and 54-57 have been withdrawn, and claim 16 has been amended.
2. Claims 1-13, 15-18, 26-28, 42-44, 52, and 53 are presented for examination.
3. Claims 16 and 17 are allowed. The reason for the indication of allowable subject matter for these claims has been addressed in the previous action.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-13, 15, 18, 26-28, 42-44, 52, and 53 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over **Harrington** U.S. Patent No. 5,895,454, in view of **Herz et al.** (Hereinafter "Herz") U.S. Patent No. 6,571,279.

As to claim 1, Harrington teaches the invention substantially as claimed, comprising:

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a database [10 of fig. 1] having records of user purchasable products, each said record including fields for at least identification and geographical availability of said product [col. 2, lines 62-65; col. 3, lines 32-59];

an input means [inherent in the system in order to submit query, 23 of fig. 2] for receiving input data from a user related to a preferred product which is selected from one of said product identification fields of said records [col. 3, lines 48-65; col. 5, lines 40-47];

searching means [search engine, col. 5, lines 44-47] for searching said database according to said input data and for determining a search result [col. 5, lines 35-47], said search result relating to those of said records including products meeting said product identification fields [col. 2, lines 51-67; ab]; and

an output display means for displaying said search result to said user provide [col. 2, lines 51-61; col. 4, lines 14-15; ab].

However, Harrington does not explicitly teach a distance value and a preferred geographical location from which said preferred product is to be sourced. Herz teaches a distance value and a preferred geographical location from which said preferred product is to be sourced [col. 26, lines 16-28; col. 25, lines 26-45].

Therefore, it would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention to have modified Harrington's system for identifying appropriated websites which meet the user's specific criteria about the products provided thereof would have incorporated the teachings of Herz for utilizing a location-enhanced product finder; the motivation being to expand and enhance the versatility of Harrington's system is to locate the

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local stores within a radius which most closely match the interest criteria to optimize search operation of finding objects containing the data of interest.

As to claim 2, Harrington and Herz teach the invention substantially as claimed. Herz further teaches that said preferred geographical location is a co-ordinate value and said boundary is determined by a radius thereabouts corresponding with said distance value [col. 17, lines 25-33; col. 25, lines 26-45; col. 27, lines 16-28].

As to claim 3, Harrington and Herz teach the invention substantially as claimed, with the exception that said geographical location is in longitudinal and latitudinal form. However, this feature is inherent in the system since Harrington teaches that user may select an area of interest in sub-regions on the map [col. 5, lines 25-61].

As to claim 4, Harrington and Herz teach the invention substantially as claimed. Herz further teaches that each said record of user purchasable products further includes at least one product attribute field and said input data is further related to said product attribute field [col. 12, lines 25 to col. 13, lines 60].

As to claim 5, Harrington and Herz teach the invention substantially as claimed. Herz further teaches said search result can be sorted by the user on the basis of said product attribute field [col. 13, lines 48-60].

As to claim 6, Harrington and Herz teach the invention substantially as claimed.

Harrington further teaches that each said record of user purchasable products further includes a pricing field and said input data is further related to said pricing field [col. 4, lines 35-50] .

As to claim 7, Harrington and Herz teach the invention substantially as claimed. Herz further teaches search result can be sorted by the user on the basis of said pricing field [col. 23, lines 50-56].

As to claim 8, Harrington and Herz teach the invention substantially as claimed. Harrington further teaches said database and said searching means is accessible over the Internet by a user of said input means [see fig. 2].

As to claim 9, Harrington and Herz teach the invention substantially as claimed. Herz further teaches said search result can be sorted by the user on the basis of said distance value [col. 17, lines 25-33; col. 25, lines 26-45; col. 27, lines 16-28].

As to claims 10-13, 15, 18, 26-28, 30, all limitations of these claims have been addresses in the analysis above, and these claims are rejected on that basis.

As to claim 42, Harrington and Herz teach the invention substantially as claimed. Harrington further teaches that a wireless communication path for communicating said input

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query information or said input data between said input means and said searching means via said adjustment means [fig. 2].

As to claim 43, Harrington and Herz teach the invention substantially as claimed. Herz further teaches that said wireless communication path includes the use of SMS protocol [col. 3, lines 48 to col. 4, lines 5].

As to claim 44, Harrington and Herz teach the invention substantially as claimed. Herz further teaches said context information is selected from the group consisting of geographical location data, user telephone number and a time of day [col. 3, lines 48 to col. 4, lines 5].

As to claim 53, all limitations of this claim have been addressed in the analysis above, and this claim is rejected on that basis.

#### ***Response to Arguments***

5. Applicant's arguments filed on August 22, 2005 have been fully considered but they are not persuasive.

Applicant argues that there is no motivation to combine Herz with Harrington.

As to this point, Examiner respectfully disagrees. The examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of

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ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Harrington does not explicitly teach a distance value and a preferred geographical location from which the preferred product is to be source although it has the same functionality of providing databases that can provide maps and other information which the user might need to locate the service or find the vendor physically [see col. 5, lines 53-61 of Harrington], and Examiner believes that Herz teaches the feature of “distance value” by determining the number of locations within a given threshold distance (e.g., within 10 miles radius which most closely match the interest criteria) [col. 17, lines 25-65 of Herz].

Applicant argues that the Harrington and Herz references do not teach said product identification fields and available within a boundary determined by a distance value of a preferred geographical location, and all limitations must be identified.

As to this point, Examiner respectfully disagrees. In claim 1, Examiner believes that the cited references only need to fulfill one of the limitations followed by “**selected from one of** ....etc. is enough to cover that claimed limitation, and Examiner believes that Herz teaches the feature of “distance value” [see col. 17, lines 25-65 of Herz].

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).



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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuy Pardo whose telephone number is 571-272-4082. The examiner can normally be reached on Mon-Thur.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin can be reached on 571-272-4146. The fax phone number for the organization where this application or proceeding is assigned as follows :

571-273-8300 (Official Communication)

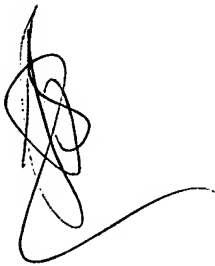
and/or:

571-273-4082 (*Use this Fax#, only after approval by Examiner, for "INFORMAL" or "Draft" communication. Examiner may request that a formal/amendment be faxed directly to then on occasions).*

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

October 31, 2005

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke extending to the right.

**THUY N. PARDO**  
**PRIMARY EXAMINER**